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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,300	10/14/2003	Karl Guenther	32022	9836
7590 01/13/2006			EXAMINER	
Carl M. Napolitano, Ph.D.			MCCARRY JR, ROBERT J	
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A. Suite 1401			ART UNIT	PAPER NUMBER
255 South Orange Avenue			3617	
Orlando, FL 32801			DATE MAILED: 01/13/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/685,300	GUENTHER ET AL.				
Office Action Summary	Examiner	Art Unit				
	Robert J. McCarry, Jr.	3617				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1) Responsive to communication(s) filed on 23 December 2005.						
/-	This action is <b>FINAL</b> . 2b)⊠ This action is non-final.					
·	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1,2,4-16,19-24,26,28,30-38,41,43-45 and 60-87</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) <u>1,2,4-16,19-24,26,28,30-38,41,43-45 and 60-82</u> is/are allowed.						
6)⊠ Claim(s) <u>83 and 85-87</u> is/are rejected.						
7) Claim(s) <u>84</u> is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers		·				
9)☐ The specification is objected to by the Examiner.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119		•				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)		•				
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) 🔲 Interview Summary Paper No(s)/Mail D					
Notice of Dransperson's Patent Drawing Review (P10-946)     Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)     Paper No(s)/Mail Date		Patent Application (PTO-152)				

Application/Control Number: 10/685,300

Art Unit: 3617

#### **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 83, 86 and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Rypinski (US 3,861,315).

Rypinski discloses a transportation system comprised of a running surface 4 suspended above ground level by columns 2 and constructed of I beams to form an inverted U shaped structure. The system is further comprised of a carrying vehicle, or truck 62, 63, 64, 65, which operates along running surface 4 and suspends a car body 6, 7 below. Figure 1 shows the system to be elevated above the ground while figures 32 and 33 show the track to have a super elevated portion. The Examiner has interpreted the super elevated portion to be elevated at a height greater than the elevated structure shown in figure 1. Figures 32 and 33 also show the super elevated portion to be elevated at an angle greater than eight degrees. Figure 31 shows the wheels 143 of the carrying vehicle to have small bearings 145 that engage a camming surface 148 so as to keep the wheel centered on the track.

### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Application/Control Number: 10/685,300

Art Unit: 3617

Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rypinski (US 3,861,315).

Rypinski discloses the transportation system as described above. However, Rypinski does not disclose the use of steel wheels. Rypinski simply states that the wheels be made of "suitable material" as stated in column 9 lines 20-23. It is well known in the art that various tracked vehicle use steel wheels to add strength to the vehicle and to prolong the life of the wheels. It would be obvious to one of ordinary skill in the art to have applied steel wheels to a system, like that of Rypinski, in order to add strength to the vehicle so as to be able to carry larger, heavier loads.

### Allowable Subject Matter

Claim 84 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 2, 4-16, 19-24, 26, 28, 30-38, 41, 43-45 and 60-82 are allowed.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone

Art Unit: 3617

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J. McCarry, Jr.

Examiner Art Unit 3617

RJM January 11, 2006

> S. JOSEPH MORANO SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3600